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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/348,416 07/07/99 BANTER

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EXAMINER

WM02/0104

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ART UNIT

PAPER NUMBER

2643

DATE MAILED:

01/04/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
09/348,416

Applicant(s)  
Banter et al

Examiner  
Phylesha Dabney

Group Art Unit  
2643



☒ Responsive to communication(s) filed on Jul 7, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

- ☒ Claim(s) 1-12 and 24-27 is/are pending in the application.
- Of the above, claim(s) 13-23 is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-12 and 24-27 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- ☒ Notice of References Cited, PTO-892
- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4
- ☐ Interview Summary, PTO-413
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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### **DETAILED ACTION**

This is a response to the application received on 7 July 1999 in which claims 1-12 and 24-27 are pending, and claims 13-23 were canceled.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

1. Claims 1-4, 6-7, 9-12, and 24-26 are rejected under 35 U.S.C. 102(e) as being inherently anticipated by Repolleet et al (U.S. Patent No. 5,828,012).

Regarding claim 1, Repolleet discloses a sound-transmissive protective cover assembly (14), comprising a microporous membrane (22) supported around its periphery by at least one adhesive support system (20, 24) such that at least a portion of the membrane (22) is free to move in response to acoustic energy, the assembly having an instantaneous water entry pressure acoustic transmission loss of no more than 3 dB (col. 4, lines 20-21) in the range of frequencies from 300 to 3000 Hz (col. 10, line 27).

Regarding claim 2, Repolleet discloses the sound-transmissive protective cover further comprising means for bonding the assembly (14) to an acoustic device (figs 1-2, cellular phone).

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Regarding claim 3, Repolleet discloses the sound-transmissive protective cover, wherein the acoustic device is a transducer (12 or 13).

Regarding claim 4, Repolleet discloses the assembly (14) further comprising a black color (col.5, lines 14-15).

Regarding claim 6, Repolleet discloses the assembly (14) further comprising an acoustic gasket (40).

Regarding claim 7, Repolleet discloses the assembly (14) the acoustic gasket (40) being bonded to the second surface of the membrane (20, 22, 24; fig.6a).

Regarding claim 9, Repolleet discloses the assembly (14) having a transmission loss of no more than 2 dB col. 4, lines 20-21).

Regarding claim 11, Repolleet discloses the membrane (20, 22, 24) is ePTFE (col. 5, lines 7-10).

Regarding claim 12, Repolleet discloses the microporous membrane (22) is supported around its periphery by a plurality of adhesive support systems (20, 24).

Regarding claim 24, Repolleet discloses the microporous membrane (22) is supported by the adhesive support system (20, 24)s in a captive construction (fig. 4).

Regarding claim 25, Repolleet discloses the cover assembly (14) further comprising an acoustic gasket (40).

Regarding claim 26, Repolleet discloses a method of using a microporous membrane (22) as a sound-transmissive acoustic protective cover for an electronic device having a transducer,

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comprising: supporting a microporous membrane (22) around its periphery with at least one adhesive support system (20, 24) such that at least a portion of the membrane (22) is free to move in response to acoustic energy; and orienting the supported microporous membrane (22) so as to cover the transducer in the electronic device, thereby forming a sound-transmissive acoustic protective cover; whereby the cover has an instantaneous water entry pressure of at least one meter water column and an overall acoustic transmission loss of no more than 3 dB (col. 4, line 21) in the range of frequencies from 300 to 3000 Hz (col. 10, line 27).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 5, 8, 10, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Repolleet et al (U.S. Patent No. 5,828,012).

Regarding claims 5 and 27, Repolleet does not teach the assembly (14) or method further comprising an oleophobic treatment on the microporous membrane (22). However, the Examiner takes official notice that it is well-known in the art to apply oleophobic treatments to PTFE or

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ePTFE materials. Therefore, it would have been obvious to one of ordinary skill in the art that oleophobic treatments could be applied to make the material into a filter for repelling particular oils or gases.

Regarding claim 8, Repolleet teaches the disclosed invention except he does not teach the assembly (14) having a particulate collection efficiency of at least 99.99999%. The Examiner takes official notice that it is well-known in the art to be able to apply an Industrial Filtration Panel Tester developed by Gore & Associates, which consists of challenging a porous sample with a stream of air carrying a dust particle at a controlled flow rate and velocity. Therefore, it would have been obvious to one of ordinary skill that particulate collection efficiency of at least 99.99999% could be obtained through routine experimentation necessary for achieving the optimum or workable ranges.

Regarding claim 10, Repolleet teaches the disclosed invention except he does not teach the assembly (14) having a long-term water entry pressure of at least 1 meter water column for a minimum of 30 minutes. The Examiner takes official notice that it is well-known in the art to be able to apply a Water Entry Pressure (WEP) Test developed by Gore & Associates to determine the waterproofness, which consists of challenging a porous sample with a column of water at a controlled pressure. Therefore, it would have been obvious to one of ordinary skill that a long-term water entry pressure of at least 1 meter water column for a minimum of 30 minutes could be obtained through routine experimentation necessary for achieving the optimum or workable ranges.

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### **CONCLUSION**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phylesha Dabney whose telephone number is (703) 306-5415. The examiner can normally be reached on Mondays, Tuesdays, Thursdays, and Fridays from 8:30 to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz, can be reached on (703) 305-4708. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-5403.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 308-9051, (for formal communications intended for entry)

**or:**

(703) 305-5403, (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor  
(Receptionist).

Phylesha Dabney



December 27, 2000

  
**HUYEN LE**  
**PRIMARY EXAMINER**